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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,548	10/28/2003	David E. Wenstrup	2800A	5462

7590 11/22/2004

John E. Vick, Jr.  
Legal Department, M-495  
PO Box 1926  
Spartanburg, SC 29304

EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/695,548

Applicant(s)

WENSTRUP, DAVID E.

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 11, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fehrer, U.S. Patent No. 5,511,294 in view of JP 04-185755 as set forth in paragraph 2 of the previous office action.
3. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fehrer, U.S. Patent No. 5,511,294 in view of JP 04-185755 as applied to claims 11, 13-16 above, and further in view of Weinle et al, U.S. Patent No. 4,840,832. Neither Fehrer nor JP '755 teach employing both a polyester conjugated fiber and a polyester staple fiber. Weinle teaches that employing polyester for both fibers in a needled, molded material further enhances the stability of the needled and molded material. See col. 2, lines 9-17 and col. 3, line 56 – col. 4, line 37. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed polyester staple fibers instead of the polypropylene fibers of JP '755, motivated by the expectation that this would further enhance the stability of the finished material.
4. Applicant's arguments filed 9/8/04 have been fully considered but they are not persuasive. Applicant argues that Fehrer does not teach the specifically claimed angle or range of angles but instead teaches that adjusting the angle "for achieving a predetermined effect" without stating what the predetermined effect which is desired is. However, needling is known in the art as a process by which fibers are entangled and fibrous materials are densified. Therefore, by changing the angle the needles enter and leave the fibrous material, the properties of the fabric can be controlled. The results of

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needling are not unpredictable but are instead well known, therefore, while Fehrer does not teach the particularly claimed angles, Fehrer does provide a motivation for selecting the particularly claimed angles through the process of routine experimentation in order to arrive at a needled fabric which has the desired degree of entanglement, strength, density etc., in particular regions of the fabric.

5. With regard to the particularly claimed fibers, Fehrer is not limited to any particular fibers. JP '755 and the newly applied Weinle reference are cited as teaching that blends which comprise conjugate fibers with a polyester sheath and either polypropylene staple fibers or polyester staple fibers can be needled and then molded. The motivation to combine the references is found in the fact that both JP '755 and Weinle teach blends of fibers which may be needled and then molded into stable fibrous materials.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

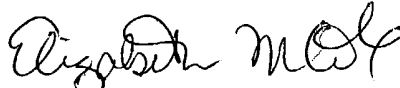
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c